

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**VANCE PITMAN,  
APPELLANT  
vs.**

**CITY OF COLUMBIA,  
RESPONDENT**

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DOCKET NUMBER WD71112

DATE: APRIL 13, 2010

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Appeal from:

Boone County Circuit Court  
The Honorable Scott A. Hayes, Judge

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Appellate Judges:

Division Two: Joseph M. Ellis, P.J., Victor C. Howard and Gary D. Witt, JJ.

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Attorneys:

Marvin Tofle, for Appellant

Jeffrey O. Parshall, for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS**

**WESTERN DISTRICT**

**VANCE PITMAN, APPELLANT**

**v.**

**CITY OF COLUMBIA, RESPONDENT**

WD71112

Boone County, Missouri

Before Division Two: Joseph M. Ellis, P.J., Victor C. Howard and Gary D. Witt, JJ.

Vance Pitman appeals the trial court's directed verdict in favor of the City of Columbia, Missouri, (City) on his claims for unjust enrichment and assumpsit for money had and received. Detective Pitman sued the City seeking reimbursement of contributions he made to the City's police retirement plan since 1991. He raises nine points on appeal claiming that the trial court erred in entering directed verdict in favor of the City because he presented substantial evidence of each element of unjust enrichment and assumpsit for money had and received and the City failed to prove its affirmative defenses as a matter of law. The judgment is affirmed in part and reversed in part, and the case is remanded with directions.

**AFFIRMED IN PART, REVERSED IN PART, REMANDED.**

**Division Two holds:**

- (1) Where Detective Pitman presented substantial evidence for every fact essential to liability and was accordingly entitled to submit his claims of unjust enrichment and assumpsit for money had and received, the trial court erred in entering a directed verdict in the City's favor on the claims.
- (2) Where fact issues remained for the jury regarding whether Detective Pitman contributed to the retirement plan with full knowledge of the facts from 1991 until September 2002, the City was not entitled to a directed verdict on its affirmative defense of voluntary payment on Detective Pitman's claims for that time period. On the contrary, no fact issues remained for the jury regarding whether he made his contributions with full knowledge of the facts after September 2002; therefore, the trial court did not err in entering a directed verdict in the City's favor on Detective Pitman's claims for that time period.
- (3) Where different conclusions could have been drawn from the evidence regarding when Detective Pitman's causes of action accrued for purposes of the statute of limitations, the trial court should have submitted the statute of limitations issue to the jury.

**Opinion by: Victor C. Howard, Judge**

Date: April 13, 2010

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